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AMENDED IN SENATE AUGUST 26, 1998
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AMENDED IN ASSEMBLY MAY 22, 1998
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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1626

**Introduced by Assembly Members Wayne, Alquist,
Frusetta, and Leach
(Principal coauthor: Assembly Member Baldwin)
(Coauthors: Assembly Members Bowler, Brewer, Campbell,
House, Kuykendall, Leonard, Miller, Morrissey, Pacheco,
Prenter, Richter, and Runner)
(Coauthors: Senators Lockyer, Vasconcellos, and Watson)**

January 5, 1998

An act to add Sections 48070.5 and 60648 to the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, as amended, Wayne. Pupil promotion and retention.

(1) Existing law requires the governing board of each school district and each county superintendent of schools to adopt policies regarding pupil promotion and retention, and

requires a pupil to be promoted or retained only as provided according to those policies.

This bill would, in addition to the policies adopted pursuant to those provisions, require the governing board of each school district and each county board of education to approve a policy regarding the promotion and retention of pupils between specified grades, and would require that policy to provide for the identification of pupils who should be retained and who are at risk of being retained in their current grade level on the basis of specified factors. The bill would require the policy to be based on various other considerations. By imposing new duties on school districts regarding the adoption of this policy, the bill would impose a state-mandated local program.

(2) Existing law, known as the Leroy Greene California Assessment of Academic Achievement Act, requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program that includes, among other things, a plan for producing individual pupil scores based on both the achievement test that is part of the Standardized Testing and Reporting (STAR) Program and the statewide assessment of pupil performance in the core curriculum areas.

This bill would require the Superintendent of Public Instruction to recommend, and the State Board of Education to adopt, levels of pupil performance for the achievement tests administered under the STAR Program in reading, English language arts, and mathematics for each grade level, and would require that those performance levels identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) It is crucial for the success of the public school
4 system and for the greatest achievement of each
5 individual pupil that all educators hold, and act upon,
6 high expectations for the academic achievement of every
7 pupil.

8 (b) With the development of rigorous academic
9 standards in each discipline for each grade level, it is the
10 expectation of the Legislature and the Governor that all
11 public school educators will do all that is necessary so that
12 each pupil meets high academic standards.

13 (c) Therefore, the Legislature and the Governor
14 declare that school districts must address the academic
15 deficiencies of every pupil.

16 SEC. 2. Section 48070.5 is added to the Education
17 Code, to read:

18 48070.5. (a) In addition to the policy adopted
19 pursuant to Section 48070, the governing board of each
20 school district and each county board of education shall,
21 in those applicable grade levels, approve a policy
22 regarding the promotion and retention of pupils between
23 the following grades:

24 (1) Between second grade and third grade.

25 (2) Between third grade and fourth grade.

26 (3) Between fourth and fifth grade.

27 (4) Between the end of the intermediate grades and
28 the beginning of middle school grades which typically
29 occurs between sixth grade and seventh grade, but may
30 vary depending upon the grade configuration of the
31 school or school district.

1 (5) Between the end of the middle school grades and
2 the beginning of high school which typically occurs
3 between eighth grade and ninth grade, but may vary
4 depending upon the grade configuration of the school or
5 school district.

6 (b) The policy shall provide for the identification of
7 pupils who should be retained and who are at risk of being
8 retained in their current grade level on the basis of either
9 of the following:

10 (1) The results of the assessments administered
11 pursuant to Article 4 (commencing with Section 60640)
12 of Chapter 5 of Part 33 and the minimum levels of
13 proficiency recommended by the State Board of
14 Education pursuant to Section 60648.

15 (2) The pupil's grades and other indicators of
16 academic achievement designated by the district.

17 (c) The policy shall base the identification of pupils
18 pursuant to subdivision (b) at the grade levels identified
19 pursuant to paragraph (1) and (2) of subdivision (a)
20 primarily on the basis of the pupil's level of proficiency in
21 reading. The policy shall base the identification of pupils
22 pursuant to subdivision (b) at the grade levels identified
23 pursuant to paragraphs (3) through (5) of subdivision (a)
24 on the basis of the pupil's level of proficiency in reading,
25 English language arts, and mathematics.

26 ~~(d) (1) If the measure adopted pursuant to~~

27 *(d) (1) If either measure identified in paragraph (1)*
28 *or (2) of subdivision (b) identifies that a pupil is*
29 *performing below the minimum standard for promotion,*
30 *the pupil shall be retained in his or her current grade level*
31 *unless the pupil's regular classroom teacher determines*
32 *in writing that retention is not the appropriate*
33 *intervention for the pupil's academic deficiencies. This*
34 *written determination shall specify the reasons that*
35 *retention is not appropriate for the pupil and shall include*
36 *recommendations for interventions other than retention*
37 *that in the opinion of the teacher are necessary to assist*
38 *the pupil to attain acceptable levels of academic*
39 *achievement. If the teacher's recommendation to*
40 *promote is contingent upon the pupil's participation in a*

1 summer school or interim session remediation program,
2 the pupil's academic performance shall be reassessed at
3 the end of the remediation program, and the decision to
4 retain or promote the pupil shall be reevaluated at that
5 time. The teacher's evaluation shall be provided to and
6 discussed with the pupil's parent or guardian and the
7 school principal before any final determination of pupil
8 retention or promotion.

9 (2) If the pupil does not have a single regular
10 classroom teacher, the policy adopted by the school
11 district shall specify the teacher or teachers responsible
12 for the promotion or retention decision.

13 (e) The policy shall provide for parental notification
14 when a pupil is identified as being at risk of retention. This
15 notice shall be provided as early in the school year as
16 practicable. The policy shall provide a pupil's parent or
17 guardian the opportunity to consult with the teacher or
18 teachers responsible for the decision to promote or retain
19 the pupil.

20 (f) The policy shall provide a process whereby the
21 decision of the teacher to retain or promote a pupil may
22 be appealed. If an appeal is made, the burden shall be on
23 the appealing party to show why the decision of the
24 teacher should be overruled.

25 (g) The policy shall provide that pupils who are at-risk
26 of being retained in their current grade be identified as
27 early in the school year, and as early in their school
28 careers, as practicable.

29 (h) The policy shall indicate the manner in which
30 opportunities for remedial instruction will be provided to
31 pupils who are recommended for retention or who are
32 identified as being at risk for retention.

33 (i) The policy adopted pursuant to this section shall be
34 adopted at a public meeting of the governing board of the
35 school district.

36 (j) Nothing in this section shall be construed to
37 prohibit the retention of a pupil not included in grade
38 levels identified pursuant to subdivision (a), or for
39 reasons other than those specified in subdivision (b), if
40 such retention is determined to be appropriate for that

1 pupil. Nothing in this section shall be construed to
2 prohibit a governing board from adopting promotion and
3 retention policies that exceed the criteria established in
4 this section.

5 SEC. 3. Section 60648 is added to the Education Code,
6 to read:

7 60648. The Superintendent of Public Instruction shall
8 recommend, and the State Board of Education shall
9 adopt, levels of pupil performance on achievement tests
10 administered pursuant to Article 4 (commencing with
11 Section 60640) of Chapter 5 of Part 33 in reading, English
12 language arts, and mathematics at each grade level. The
13 performance levels shall identify and establish the level
14 of performance that is deemed to be the minimum level
15 required for satisfactory performance in the next grade.
16 These levels of performance shall only be adopted after
17 the achievement tests have been aligned, pursuant to
18 paragraph (3) of subdivision (a) of Section 60643, to the
19 content and performance standards adopted by the State
20 Board of Education pursuant to subdivision (a) of Section
21 60605.

22 SEC. 4. Notwithstanding Section 17610 of the
23 Government Code, if the Commission on State Mandates
24 determines that this act contains costs mandated by the
25 state, reimbursement to local agencies and school
26 districts for those costs shall be made pursuant to Part 7
27 (commencing with Section 17500) of Division 4 of Title
28 2 of the Government Code. If the statewide cost of the
29 claim for reimbursement does not exceed one million
30 dollars (\$1,000,000), reimbursement shall be made from
31 the State Mandates Claims Fund.

32 Notwithstanding Section 17580 of the Government
33 Code, unless otherwise specified, the provisions of this act
34 shall become operative on the same date that the act
35 takes effect pursuant to the California Constitution.